The opinion in support of the decision being entered today was <u>not</u> written for publication in a law journal and is <u>not</u> binding precedent of the Board.

## UNITED STATES PATENT AND TRADEMARK OFFICE

## BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte MAURIZIO VALLERI

Appeal No. 2005-0756 Application 09/463,586

**ORDER DISMISSING APPEAL** 

MAILED

MAR 1 7 2005

U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

Before HARKCOM, Acting Chief Administrative Patent Judge, and WILLIAM F. SMITH and NASE, Administrative Patent Judges.

## Per curiam.

On January 10, 2005, counsel for the appellant filed, among other documents, a Request for Continued Examination (RCE) under 37 CFR § 1.114. Pursuant to the notice entitled "Request for Continued Examination Practice and Changes to Provisional Application Practice," 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR § 1.114(d), a request for continued examination under 37 CFR § 1.114 filed after appeal has been taken, but prior to a decision on the appeal, "will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner."

Accordingly, the appeal in this application is dismissed.

The application is being returned to the examiner for further action as may be appropriate.

Gary V. Harkcom, Acting Chief Administrative Patent Judge

William F. Smith Administrative Patent Judge

Jeffrey V. Nase Administrative Patent Judge BOARD OF PATENT APPEALS AND INTERFERENCES

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